

(Summary First Published in the Butler County
Times-Gazette on the 25th day of March, 2017.)

THE CITY OF AUGUSTA, KANSAS

ORDINANCE NO. 2113

AN ORDINANCE EXEMPTING THE AUGUSTA FRISCO DEPOT AND ITS FACILITIES FROM THE STATUTORY PROHIBITIONS ON THE DRINKING OR CONSUMPTION OF ALCOHOLIC LIQUOR ON PUBLIC PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF AUGUSTA, KANSAS.

WHEREAS, K.S.A. 41-719(c) prohibits the drinking or consumption of alcoholic liquor on public property; and

WHEREAS, K.S.A. 41-719(d) authorizes the Governing Body of the City of Augusta, Kansas to exempt, by ordinance, specified property, the title of which is vested in the City of Augusta, Kansas, from said prohibition on the drinking or consumption of alcoholic liquor on public property; and

WHEREAS, K.S.A. 41-2645(a) authorizes the state of Kansas to issue a temporary permit allowing the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit; and

WHEREAS, the Governing Body of the City of Augusta, Kansas desires to exempt the Augusta Frisco Depot and its facilities located within and around the property legally described below, the title of which is vested in the City of Augusta, Kansas, from said prohibition on the drinking or consumption of alcoholic liquor on public property by temporary permit, which may be issued in conjunction with a temporary sale permit issued by the state of Kansas pursuant to K.S.A. 41-2645(a).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AUGUSTA, KANSAS:

Section 1. Cereal malt beverages and alcoholic liquor—Public consumption.

A. The following words and phrases, whenever used in this section, shall be construed as follows:

1. Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

2. Alcoholic liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

3. Beer means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

4. Augusta Frisco Depot and its facilities means the Augusta Frisco depot and its facilities located within and around the property legally described as follows:

Beginning at the Northeast corner of Lot Numbered Five (5), in Block Numbered Twenty-five (25), in the Original Town, now City of Augusta, thence West 265 feet; thence North to a point 12 feet South of the Southerly right-of-way of the railroad, thence Northerly parallel to and 12 feet South of the Southerly right-of-way of the railroad to a point due North of the point of beginning, thence South to the point of beginning, in Butler County, Kansas.

The title of the above-described property is vested in the City of Augusta, Kansas.

5. Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

6. Wine means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

B. Except as provided in this section, it is unlawful for any person twenty-one (21) years of age or older to have in his/her possession any cereal malt beverage and/or alcoholic liquor, except in the original and unopened containers, or to consume any cereal malt beverages and/or alcoholic liquor in or upon, or inside or upon any vehicle in or upon, the public highways, roads, streets, alleys, sidewalks, parks, playgrounds, driveways or parking lots, whether the driveways or parking lots be public or private if they are open to and accessible to the members of the public within the city.

C. Pursuant to the provisions of K.S.A. 41-719(d) and this section, the Augusta Frisco Depot and its facilities may be exempted from the prohibitions on the drinking or consumption of alcoholic liquor on public property contained in K.S.A. 41-719(c) as well as those prohibitions concerning the drinking or consumption of alcoholic liquor on public property contained above by virtue of a temporary permit issued by the Governing Body City Manager of the City of Augusta, Kansas, which may be issued in conjunction with a temporary alcoholic liquor sales permit issued by the state of Kansas pursuant to the provisions of K.S.A. 41-2645(a).

1. Any temporary permit issued pursuant to this section shall not exceed the length of anythe temporary sales permit issued by the state of Kansas pursuant to the provisions of K.S.A. 41-2645(a) and shall be issued to a specific person, individually or on behalf of a group or organization.

2. Any such temporary permit shall be signed, sealed and issued in writing by the City of Augusta, Kansas and shall specify the exact dates and hours of the permit, describe the exact area of the Augusta Frisco Depot and its facilities exempted by the permit and contain such additional conditions as deemed prudent by the Governing Body City Manager of the City of Augusta, Kansas.

D. The person receiving a temporary permit pursuant to this section shall conspicuously post the permit within the area of the Augusta Frisco Depot and its facilities exempted by the permit during the entire time the permit is in effect.

E. The Augusta Department of Public Safety shall be responsible for enforcing the provisions of this Ordinance and the terms and conditions of all temporary permits issued hereunder within the City of Augusta, Kansas, but nothing in this section shall be interpreted to prohibit any other person who would otherwise be lawfully entitled to enforce other alcoholic liquor and cereal malt beverage laws which are not effected by provisions of this Ordinance from taking enforcement action.

F. It shall be unlawful for any person receiving a temporary permit pursuant to this Ordinance to fail to comply with the posting provisions of this section.

G. It shall be unlawful for any person to fail to comply with any term or condition of any temporary permit issued pursuant to this section.

H. Violation of any provision of this section is a class C misdemeanor.

Section 2. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Effective Date.

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

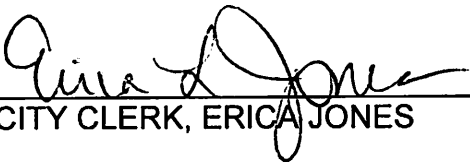
Adopted by the City Council this 206th day of FebruaryMarch, 2017.

Approved by the Mayor this 6th 20th day of FebruaryMarch, 2017.


MAYOR, MATT CHILDERS

SEAL

ATTEST:


CITY CLERK, ERICA JONES

